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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,987	12/19/2001	Joseph J. Tallal JR.		2337

7590

06/10/2003

Edwin S. Flores  
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EXAMINER

GONZALEZ, JULIO C

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/027,987

Applicant(s)

TALLAL ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice or References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two or more ducts with a larger cross sectional area as disclosed in claim 2 and the intermediate duct between the intake and the second end of the duct as disclosed in claim 3 and the air focusing device within the enclosure as disclosed in claim 8 and the vibration dampener as disclosed in claim 12 and the processor as disclosed in claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because the figures are not clear as to differentiate between what is considered an intermediate duct and the first and second end. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specifications (page 8, lines 1-3, 18-20) and the claims disclosed that the wind turbine generates electricity. However, wind turbines themselves are not able to generate electricity. Wind turbines only assist an input to a generator, which produces electricity. As described in the specification, such system will not be able to generate electricity. Also, the specifications provided no information as to how the system can be remotely controlled. No new matter should be entered.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the claims disclose an air duct having a first end connected to an air duct intake and a second end connected to an enclosure intake. It may seem as if the enclosure intake and the air duct intake are the same device (see figure 1, air duct 40). What are the differences between both intakes?

In claim 3, what is considered an intermediate duct? Is it the middle of air duct 40? Or another duct?

In claim 8, what is considered an air flow focusing device? What makes this device different from the ducts?

In claim 11, the enclosure is disclosed to be mounted outside, yet in figure 1, the enclosure 20 forms the entire attic. Is the wind turbine the enclosure? Or is the enclosure 20 the whole attic (see figure 1)?

In claim 15, an exhaust duct has a first end connected to an enclosure air exhaust and a second end connected to an air exhaust. Is the first end connected to two different air exhausts? Where is the first and second end? Is the exhaust duct having a first and second end connected to an air exhaust?

In claim 17, the cross sectional area of the exhaust duct are disclosed to be larger than the cross sectional area of the two or more air ducts. Is the exhaust duct the exhaust vent 60? The specifications in page 7, lines 14-17 state the opposite. The inlets have a larger cross sectional area. Which one is it?

In order to advance prosecution in the merits, the Prior Art will be applied as best understood by the examiner.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickey in view of Bergeron, Jr.

Hickey discloses a system for generating electricity having a wind turbine 16d disposed within an enclosure of the building (see figure 1). Also, two or more air ducts 154 are disclosed so that wind may enter the building (see figure 9). Moreover, it is shown that the system has a controller 44 (see figure 3, 4). However, Hickey does not disclose explicitly having a plurality of ducts and intermediate ducts.

On the other hand, Bergeron, Jr. discloses for the purpose of providing an efficient air circulation system for a building, air intakes 22 and a building having a

plurality of intake ducts, exhaust ducts and intermediate ducts (see figure 1, 3, 5, 6, 9, 14 and 15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a system for generating electricity as disclosed by Hickey and to modify the invention by having intermediate ducts for the purpose of providing an efficient air circulation system for a building as disclosed by Bergeron, Jr.

9. Claims 4, 5, 7, 9, 10, 15, 16, 18, 20-22, 24, 26, 27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickey in view of Bergeron, Jr. and Shingaki.

Hickey discloses a system for generating electricity having a wind turbine 16d disposed within an enclosure of the building (see figure 1). Also, two or more air ducts 154 are disclosed so that wind may enter the building (see figure 9). Moreover, it is shown that the system has a controller 44 (see figure 3, 4). However, Hickey does not disclose explicitly having a plurality of ducts and intermediate ducts.

On the other hand, Bergeron, Jr. discloses for the purpose of providing an efficient air circulation system for a building, air intakes 22 and a building having a

plurality of intake ducts, exhaust ducts and intermediate ducts (see figure 1, 3, 5, 6, 9, 14 and 15).

However, neither Hickey nor Bergeron disclose explicitly having an air intake mounted on the exterior of a building.

On the other hand, Shingaki discloses for the purpose of reducing dew condensation by improving air circulation within a building, an air intake 72 mounted on an exterior of the building (see figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a system for generating electricity as disclosed by Hickey and to modify the invention by having intermediate ducts for the purpose of providing an efficient air circulation system for a building as disclosed by Bergeron, Jr. and to mount an air intake on the exterior of the building for the purpose of reducing dew condensation by improving air circulation within a building as disclosed by Shingaki.

10. Claims 2, 8, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickey, Bergeron, Jr. and Shingaki as applied to claims 1 and 18 above, and further in view of Baumgartner et al.



The combined device discloses all of the elements above. However, the combined device does not disclose that the air ducts may have a larger cross sectional area at one end.

On the other hand, Baumgartner et al discloses for the purpose of making a wind turbine, which is able to rotate efficiently a generator so that enough power may be produced in order to drive loads, an air duct having a larger cross sectional area than the second end of the duct (see figure 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined system as disclosed above and to modify the invention by using a duct with different cross sectional areas for the purpose of making a wind turbine, which is able to rotate efficiently a generator so that enough power may be produced in order to drive loads as disclosed by Baumgartner et al.

11. Claims 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickey, Bergeron, Jr. and Shingaki as applied to claims 1 and 18 above, and further in view of Roskey.

The combined device discloses all of the elements above. However, the combined device does not disclose that the air scoop may change the position.

On the other hand, Roskey discloses for the purpose of providing a ventilation system that is fuel efficient, air scoop 104 (see figure 13), which can change the position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined system as disclosed above and to modify the invention by changing the position of the scoops for the purpose of providing a ventilation system that is fuel efficient as disclosed by Roskey.

12. Claims 17 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hickey, Bergeron, Jr. and Shingaki as applied to claims 1 and 18 above, and further in view of Birgel et al.

The combined device discloses all of the elements above. However, the combined device does not disclose that the cross sectional area of the exhaust duct is greater than another air duct.

On the other hand, Birgel et al discloses for the purpose of improving shaft speed of the turbines thus outputting more power, an exhaust 54 having a larger cross sectional area than another air duct 52 (see figure 5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined system as disclosed above and to

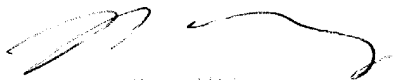
modify the invention by changing the cross sectional areas of the ducts for the purpose of improving shaft speed of the turbines thus outputting more power as disclosed by Birgel et al.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Handwritten signature of Julio C. Gonzalez, followed by a faint, illegible stamp.

Jcg

June 3, 2003